

IN SENATE OF THE UNITED STATES.

JULY 12, 1848.

Submitted, and ordered to be printed.

Mr. FELCH made the following report:

[To accompany bill S. No. 318.]

The Committee on Pensions, to whom was referred the memorial of Nathan Worthen, praying for the payment to the heirs of Judith Worthen, deceased, of a pension, to which she was entitled as the widow of Isaac Worthen, deceased, respectfully report:

That it appears, from the papers presented, that Judith Worthen, the widow of Isaac Worthen, a revolutionary pensioner, applied at the pension office for a pension, under the act of July 7, 1838. This act gave to the widows of certain revolutionary soldiers, for the term of five years from the 4th day of March, 1836, the annuity or pension which might have been allowed to the husband, in virtue of a previous act, if living at the time it was passed. Her husband received his pension, under the previous act referred to, until his death, which occurred on the 1st day of March, 1841. On the 3d day of March, 1843, the widow made her declaration, under the act of 7th July, 1838, and the next month filed her papers with the Commissioner of Pensions. These papers were not finally acted on at the pension office, until after the 30th April, 1844. On that day, an act was passed providing that no pension should thereafter be granted to a widow for the same time for which her husband had received one. The five years for which the pension was granted to widows, by the act of July 7, 1838, extended from 4th of March, 1836, to March 4, 1841. The husband died on the 1st March, 1841, and, in consequence of the law last mentioned, the commissioner granted her a pension for only three days; from his death on the 1st, until the 4th March, 1841. If the case had been decided at the time the papers were presented, she would have received, as she was entitled under the law, the whole five years pension at \$48 per annum. It is claimed by her heirs, that the delay in deciding the case at the office upon proofs found amply sufficient, should not prejudice her rights, and that the money withheld should be paid to her legal representatives.

It is not the policy of the pension laws to grant pensions, or the arrearages of pensions, to the heirs of the pensioners. When,

however, money has actually become due, and payable to a pensioner, and all the papers to obtain its payment are filed with the proper officer, and the payment delayed on account of a press of business which prevents the examination at an early day, the committee see much reason in regarding the money due as the property of the pensioner, to which his heirs may be justly entitled. In this case, nothing but the delay in examining the papers filed, until after the act of April 30, 1844, prevented her receiving the money. Her right to it was perfect under the law of 1838, until long after she had done all that was required of her to obtain it.

To avoid the injustice of the restrictive act of April 30, 1844, in cases like that here presented, a joint resolution was passed on the 23d January, 1845, providing that the restriction should not be construed to effect the claims of those widows whose applications for a pension, or an arrear of pension, at the passage of the resolution, shall have been made and filed in the pension office, awaiting the decision of the Commissioner of Pensions thereon. The restriction was re-enacted in February, 1845, but cases in which (like that under consideration) the declaration was made on or before April 30, 1844, and filed in the pension office on or before the 23d January, 1845, were expressly excepted from its operation.

Under these provisions the widow, if living, would be entitled to receive the pension for five years, ending March 4, 1841, and that, too, on the same papers which were filed by her in the pension office in 1843. Her death has prevented the drawing of the money.

Under the facts of this case, and the legislation on the subject above cited, the committee are of opinion that the amount of the five years' pension ought to be regarded as belonging to the widow, and, after her application was made in due form to obtain it, should be considered as money in the treasury for her use, to which her heirs are justly entitled. They, therefore, report a bill to that effect.